

RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC 371

IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

Responsive to the Notification mailed July 25, 2005, Applicants submit herewith a copy of the original Notification of Missing Requirements Under 35 USC 371 In The United States Designated/Elected Office (DO/EO/US), Declarations executed by the available inventors, the late Declaration surcharge.

SUBMISSION OF PETITION UNDER 37 C.F.R. § 1.47(a)

Applicants submit concurrently herewith a Petition Under 37 C.F.R. § 1.47(a) petitioning the Commissioner to accept its application Serial No. 10/534,055 absent an oath or declaration signed by all named inventors. Joint inventors George P. Teitelbaum, Samuel M. Shaolian, Thanh V. Nguyen, To V. Pham, Vincent Divino, Jr., and Michael R. Henson, have signed a Declaration. Joint inventor Frank Nguyen is a nonsigning inventor, notwithstanding diligent efforts to obtain his signature.

FEES

A check in the amount of \$710.00 is attached for the following fees:

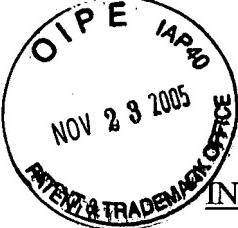
| | |
|-------------------------------------|-----------------|
| Two Month Extension of Time | \$450.00 |
| Late Declaration Surcharge | \$130.00 |
| Petition Under 37 C.F.R. § 1.47 Fee | \$130.00 |
| TOTAL AMOUNT ENCLOSED | \$710.00 |

In the event any variance exists between the amount enclosed and the amount determined by the USPTO to enter this Response or maintain the present application pending, please charge or credit such variance to the undersigned's Deposit Account No. **50-0206**.

11/29/2005 LLANDGRA 00000051 10534055

01 FC:1617
02 FC:1252

130.00 0P
450.00 0P



PATENT
ATTY. DKT. NO. 64118.000192

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
TEITELBAUM *et al.*) Group Art Unit: Unassigned
Application Number: 10/534,055) Examiner: Unassigned
Filed: May 6, 2005)
For: TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS
METHODS AND DEVICES)

**RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS
UNDER 35 USC 371 IN THE UNITED STATES DESIGNATED/
ELECTED OFFICE (DO/EO/US),
REQUEST FOR EXTENSION OF TIME AND
SUBMISSION OF PETITION UNDER 37 C.F.R. § 1.47(a)**

MAIL STOP MISSING PARTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

REQUEST FOR TWO-MONTH EXTENSION OF TIME

Applicants respectfully request a two-month extension of time under 37 C.F.R. § 1.136(a) for responding to the Office Action mailed on July 25, 2005. Accordingly, the time for response will be extended up to and including November 25, 2005. A check in the amount of \$710.00 is attached, part of which covers the two-month extension of time fee of \$450.00. Applicants believe that no additional fee is required for the submission of this Response. However, in the event that the U.S. Patent and Trademark Office ("USPTO") requires an additional fee to enter this Response or to maintain the present application pending, please charge such fee to the undersigned's Deposit Account No. 50-0206.

IAP4 Rec'd PCT/PTO 23 NOV 2005

FEE TRANSMITTAL

For FY 2005



NOV 23 2005

MAIL STOP MISSING PARTS

 Applicant claims small entity status. See 37 CFR 1.27

Total Amount Of Payment (\$)

710.00

Complete If Known

| | |
|----------------------|-------------------|
| Application No. | 10/534,055 |
| Filing Date | May 6, 2005 |
| First Named Inventor | TEITELBAUM et al. |
| Examiner Name | Unassigned |
| Art Unit | Unassigned |

Attorney Docket No. 64118.000192

METHOD OF PAYMENT (check all that apply)

 Check Credit Card Money Order None Other (identify): _____

 Deposit Account Deposit Account Number **50-0206** Deposit Account Name : **Hunton & Williams LLP**

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

- | | |
|--|--|
| <input type="checkbox"/> Charge fee(s) indicated below. | <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee |
| <input checked="" type="checkbox"/> Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 | <input type="checkbox"/> Credit any overpayments. |

FEE CALCULATION

1. BASIC FILING, SEARCH AND EXAMINATION FEES

| Application Type | FILING FEES | | SEARCH FEES | | EXAMINATION FEES | | |
|------------------|-------------|-----------------------|-------------|-----------------------|------------------|-----------------------|----------------|
| | Fee(\$) | Small Entity Fee (\$) | Fee(\$) | Small Entity Fee (\$) | Fee(\$) | Small Entity Fee (\$) | Fees Paid (\$) |
| Utility | 300.00 | 150.00 | 500.00 | 250.00 | 200.00 | 100.00 | |
| Design | 200.00 | 100.00 | 100.00 | 50.00 | 130.00 | 65.00 | |
| Plant | 200.00 | 100.00 | 300.00 | 150.00 | 160.00 | 80.00 | |
| Reissue | 300.00 | 150.00 | 500.00 | 250.00 | 600.00 | 300.00 | |
| Provisional | 200.00 | 100.00 | 0.00 | 0.00 | 0.00 | 0.00 | |

2. EXCESS CLAIMS FEES

| For | Number Present | Highest Number Paid For | Extra | Fees (\$) | Small Entity Fee (\$) | Fees Paid (\$) |
|--------------------------|----------------|-------------------------|-------|-----------|-----------------------|----------------|
| Total Claims | 9 | 20 | 0 x | 50.00 | 25.00 | |
| Independent Claims | 1 | 3 | 0 x | 200.00 | 100.00 | |
| Multiple Dependent Claim | | | | 360.00 | 180.00 | |
| Total Excess Claims Fees | | | | | | |

3. APPLICATION SIZE FEE (if the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).)

| Total Sheets | Extra Sheets | No. of Each Additional 50 or Fraction Thereof | Fees (\$) | Small Entity Fee (\$) | Fees Paid (\$) |
|---------------|--------------|---|-----------|-----------------------|----------------|
| _____ - 100 = | _____ / 50 = | (round up to a whole number) x | 250.00 | 125.00 | |

4. OTHER FEE(S)

- | | | | |
|---|---|--|--------|
| <input type="checkbox"/> Non-English Specification (no small entity discount) | <input type="checkbox"/> Utility Issue Fee (or Reissue) (including Publication Fee, if necessary) | | |
| <input checked="" type="checkbox"/> Surcharge - late filing fee or oath | 130.00 | <input type="checkbox"/> Design Issue Fee | |
| <input type="checkbox"/> Surcharge - late provisional filing fee or cover sheet | | <input type="checkbox"/> Plant Issue Fee | |
| <input checked="" type="checkbox"/> 2 Month Extension of Time | 450.00 | <input checked="" type="checkbox"/> Petition to Commissioner | 130.00 |
| <input type="checkbox"/> Submission of Information Disclosure Statement | | <input type="checkbox"/> Petition to Revive (Unavoidable) | |
| <input type="checkbox"/> Request for Oral Hearing | | <input type="checkbox"/> Petitions Related to Provisional Applications | |
| <input type="checkbox"/> Filing Brief in Support of Appeal | | <input type="checkbox"/> Recording Each Patent Assignment Per Property | |
| <input type="checkbox"/> Filing Submission After Final Rejection | | <input type="checkbox"/> Other (specify) _____ | |

SUBMITTED BY

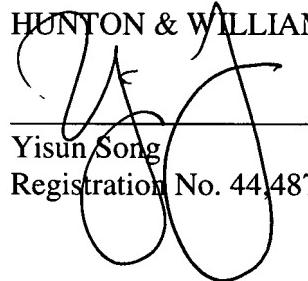
| | | | | | |
|-----------------------|---|------------------|--------|-----------|-------------------|
| Signature |  | Registration No. | 44,487 | Telephone | (202) 955-1500 |
| Typed or Printed Name | Yisun Song | | | Date | November 23, 2005 |

Date: November 23, 2005

By:

Respectfully submitted,

HUNTON & WILLIAMS LLP


Yisun Song
Registration No. 44,487

HUNTON & WILLIAMS LLP
1900 K Street, N.W., Suite 1200
Washington, D.C. 20006-1109
(202) 955-1500 (telephone)
(202) 778-2201 (facsimile)

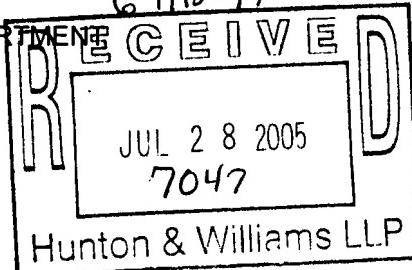


UNITED STATES PATENT AND TRADEMARK OFFICE

PAJD/Tmm/YS5
 UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
www.uspto.gov

| U.S. APPLICATION NUMBER NO. | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
|-----------------------------|-----------------------|------------------|
| 10/534,055 | George P Teitelbaum | 64118.000192 |

21967
 HUNTON & WILLIAMS LLP
 INTELLECTUAL PROPERTY DEPARTMENT
 1900 K STREET, N.W.
 SUITE 1200
 WASHINGTON, DC 20006-1109



INTERNATIONAL APPLICATION NO.

PCT/US03/09285

IA. FILING DATE

PRIORITY DATE

03/25/2003

CONFIRMATION NO. 2702
 371 FORMALITIES LETTER



OC000000016599365

Date Mailed: 07/25/2005

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 05/06/2005
- Copy of the International Search Report filed on 05/06/2005
- Copy of IPE Report filed on 05/06/2005
- Copy of Annexes to the IPER filed on 05/06/2005
- U.S. Basic National Fees filed on 05/06/2005
- Priority Documents filed on 05/06/2005
- Specification filed on 05/06/2005
- Claims filed on 05/06/2005
- Abstracts filed on 05/06/2005
- Drawings filed on 05/06/2005

| | |
|--------------|---------------------|
| DOCKETED | 7-28-05 |
| ACTION CODE: | Missing Requirement |
| BASE DATE | 7-25-05 |
| FILE DATE | 9-25-05 |
| DEADLINE | 2-25-06 |
| ATTORNEYS | PAJD/Tmm/YS5 |
| INITIALS | A |

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Additional claim fees of **\$6350** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.
- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$6350** for a Large Entity:

- Total additional claim fee(s) for this application is **\$ 6350**

- **\$1600** for 8 independent claims over 3.
- **\$4750** for 95 total claims over 20.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

PATRICIA A BOOKER

Telephone: (703) 308-9140 EXT 204

PART 1 - ATTORNEY/APPLICANT COPY

| U.S. APPLICATION NUMBER NO. | INTERNATIONAL APPLICATION NO. | ATTY. DOCKET NO. |
|-----------------------------|-------------------------------|------------------|
| 10/534,055 | PCT/US03/09285 | 64118.000192 |

FORM PCT/DO/EO/905 (371 Formalities Notice)